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3-26-03

PATENT
Docket No. WALB.83137

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Brock WALKER

Serial No.: 09/390,625

Filing Date: September 7, 1999

For: WALKER WEDGE

Examiner: Michael A. Brown

Group Art Unit: 3764

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TECHNOLOGY CENTER R3700

RESPONSE UNDER 37 C.F.R. § 1.111

Box Non-Fee Amendment
Commissioner for Patent
Washington, DC 20231

Dear Sir:

This is in response to the Office Action mailed December 18, 2002. Allowance of the above-mentioned application is respectfully requested in view of the following remarks.

REMARKS

Reconsideration is respectfully requested.

First, the Applicant notes, with appreciation, the allowance of claims 1-27 and 32-33.

The Examiner rejected claims 28 and 29 under 35 U.S.C. § 102(b) as being anticipated by Iams, U.S. Patent 5,452,728 ("Iams"). A review of Iams shows this rejection as wanting for the following reasons.

First, "30" is identified as a "lumbar support pivot" (col. 8, l. 40) which, when used, will be positioned 180° from the position shown in Fig. 3. (see Fig. 1). Thus, the narrower or first end 38 is positioned toward the head while the second end 40 is toward the feet. Surface 42 is identified as a "lumbar support surface" (col. 8, l. 54).

Two significant teachings away from the present invention thus become clear. First, the support pad 52 is positioned on the lumbar support surface 42 and is not used at all for sacral support purposes. When used, therefore, pad 52 will be for the lumbar portion of the back. As claim 28 requires, the claimed insert provides concentrated support on the sacrum, which is very different from the lumbar area. In fact, due to its location, pad 52 cannot provide support on the sacrum. As a

Serial No. 09/390,625
Attorney Docket No. WALB.83137

consequence, the suggested location of pad 52 teaches away from the present invention in claim 28 by suggesting lumbar support.

Second, the sacral support surface 45 slopes away from the high point, or fulcrum 44, of pad 30. The specification, at col. 8, l. 57-60 states:

The sacral support surface 45 is generally flat but slightly concave in the longitudinal direction, and slightly dished or concave in the lateral direction, to conform to the sacral region of the lower back.

This portion of the specification not only describes the sacral support surface 45 as being "concave", but that it actually is also "slightly dished" in the lateral direction. When a surface is "concave or "dished" it is recessed and will not serve to project a force applying effect. The fact that it is recessed or dished reduces the effect of that surface on the spine. Consequently, the fact that this disclosure states that the portion which is supposed to relate to the sacrum is dished or concave also teaches away from the claimed concept of having a sacral support that positively applies a force concentrated on the sacrum as claim 28 states.

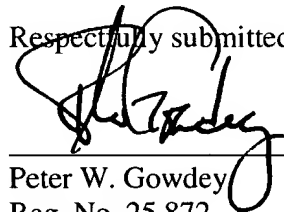
Iams does not suggest the concept or features set forth in claim 28 nor the force range of claim 29. As a result, claims 28 and 29 are not properly rejectable under 35 U.S.C. § 102 in view of Iams. Withdrawal of that rejection is, therefore, respectfully requested.

Since it is believed that claim 28 is allowable over Iams, claims 30 and 31 are not now being presented in independent form.

An early and favorable allowance is respectfully requested. Should there be any issues the Examiner would like to discuss, he is urged to call the undersigned at (202) 783-8400.

The Commissioner is hereby authorized to charge any additional fees that are required or credit any overpayment to Deposit Account No.19-2112 referencing WALB.83137.

Respectfully submitted,



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Dated: March 17, 2003